

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3319 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

- =====
1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements? -
  2. To be referred to the Reporter or not? - :
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement? -
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder? -
  5. Whether it is to be circulated to the Civil Judge? : NO  
-

-----  
JAYANTILAL M PATEL

Versus

STATE OF GUJARAT  
-----

Appearance:

MR VC DESAI for Petitioner  
MR LR PUJARI, AGP for Respondents.  
-----

CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 21/12/1999

ORAL JUDGEMENT

The land admeasuring 523 sq. metre has been declared as an excess land by the order dated 8-6-1990. Appeal No. 117/90 was filed against that order before the appropriate authority and that appeal has been rejected by the order dated 30-4-1991 by the Tribunal.

2. It is also asserted by the competent authority in the affidavit-in-reply that 16 rooms have been constructed on the land which covers the built up area. The constructed area is not deemed to be a vacant land under Section 2 (q) of the Urban Land (Ceiling and Regulation) Repeal Act, 1999 and the petitioner is entitled to additional appurtenant land u/s Section 2 (g) of the said Act. Therefore, no question arises for declaration of the aforesaid land as excess land. The Urban Land (Ceiling and Regulation) Repeal Act, 1999 has come into force on 30-3-1999 in view of the resolution passed by the Legislature Assembly under Article 252 of the Constitution of India. Section 4 of the Act, reads as under :

"Section 4 : All proceedings relating to any order made or purported to be made under the principal Act pending immediately before the commencement of this Act, before any Court, Tribunal or other authority shall abate:

Provided that this section shall not apply to the proceedings relating to sections 11, 12, 13 and 14 of the principal Act in so far as such proceedings are relatable to the land, possession of which has been taken over by the State Government or any person duly authorized by the State Government in this behalf or by the competent authority."

3. In view of the aforesaid facts and circumstances of the case, the proceedings of this petition stand abated. However, the petitioner is at liberty to move the appropriate authority for his claim. If any representation is filed by the petitioner within a period of one month from the date of production of a certified copy of this order, the appropriate authority is directed to decide the same in accordance with law within a period of two months thereafter.

4. In view of the aforesaid direction, this petitions stands disposed. Rule is made absolute to the aforesaid extent, with no order as to costs. Interim relief, if any, stands vacated.

5. The decision of this Court in the present petition will not be taken as a precedent as the same has been taken in view of the peculiar facts and circumstances of the case.

-0-0-0-0-0-

/JVSatwara/